

RULES OF THE SENATE—APPENDIX

SENATE PRECEDENTS RELATING TO CONFERENCES

It is immaterial whether a committee to adjust differences be termed a conference committee or a free conference committee, there being no substantial difference between the two (Senator Hopkins, 34th, 3rd Called, 670).

A motion having been made to adopt a conference report, a motion to reject the report is not in order (Lieutenant Governor Witt, 42nd, 3rd Called, 163).

A conference committee may not be instructed after it has commenced its deliberations (Lieutenant Governor Witt, 43rd Reg., p. 684; Lieutenant Governor Woodul, 44th, 3rd Called, 250, 251, 252).

No points of order may be raised against a conference committee report (Lieutenant Governor Witt, 43rd Reg., p. 1892).

A motion to adopt a conference committee report on a joint resolution is in order at any time, and without a reconsideration of the vote by which it has once been lost (Lieutenant Governor Woodul, 44th Reg., p. 1812).

A motion to discharge a conference committee and request a new conference committee is in order before the original conference committee has submitted its report (Lieutenant Governor Woodul, 45th, 1st Called, 44).

Even after a conference report has been adopted and the bill as recommended in the report has been enrolled, signed and presented to the Governor, the vote by which report was adopted may be reconsidered, the report rejected, and the differences between the two Houses referred to a new conference committee for adjustment (Lieutenant Governor Stevenson, 46th Reg., 1437).

A concurrent resolution to correct a House bill that has been passed by the Senate is in order and requires only a majority vote for adoption (Lieutenant Governor Stevenson, 46th Reg., 1891).

Adoption of resolution to recede from Senate amendments to House bill after request made by House for conference committee and request granted but Senate conferees not appointed properly effects an adjustment of differences between two Houses (Lieutenant Governor Stevenson, 47th Reg., 1291).

After a bill reaches a stage when the adjustment of the differences between the two Houses on the bill is all that remains to effect

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its final enactment, either or both Houses may take any action, separately or jointly, which will adjust those differences (Lieutenant Governor Stevenson, 47th Reg., 1291).

A conference report may contain any matter germane to original bill if entire text of bill as passed in the two Houses are different (Lieutenant Governor Stevenson, 47th Reg., 2493).

PROCEDURE AND PRACTICE IN CONGRESS RELATIVE TO ADJUSTING DIFFERENCES BETWEEN HOUSES

Steps Preliminary to Conference

The Senate can not act until in possession of the papers (5, 6322, 6518-6522), and when transmitting papers should ask for or agree to conference (5, 6273).

The papers consist of the original engrossed copy of the bill attested by the Clerk of the House or the Secretary of the Senate, the engrossed amendments, and later the conference report signed by the managers.

The managers on the part of the House asking the conference bring the papers to the conference room. At the close of an effective conference the papers change hands, and the managers on the part of the House agreeing to the conference receive them and take them to their House, which first receives and considers the conference report (5, 6254; 8, 3330).

The motion to not concur yields precedence to the motion to concur (8, 3179).

The stage of disagreement between the two Houses is reached when one informs the other of disagreement (4, 3475; 6, 756, 757). A bill with amendments of the other House is privileged after the stage of disagreement has been reached (4, 3149, 3150; 6, 756; 8, 3185, 3194).

The stage of disagreement having been reached, that motion which tends most quickly to bring the Houses into agreement is preferential, and so a motion to adopt a conference report takes precedence over a motion to recommit it (8, 3204).

A majority of the managers of a conference should represent the attitude of the majority of the House on the disagreement in issue, and on exceptional occasions the Speaker has passed over the ranking member of the committee in the appointment of conferees in order to conform to this practice (8, 3223).

Resignations of conferees are properly addressed to the President, but are acted on by the Senate, and, being accepted, the President appoints successors and directs the Secretary to notify the House (5, 6373-6376; 8, 3224, 3227).

The motion to instruct conferees is not in order after the conferees have been appointed (5, 6379-6382; 8, 3233, 3240, 3256).

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The motion to instruct conferees is divisible if it contains more than one substantive proposition (74-2-7945, 7951).

Motions to instruct conferees may not include directions which would be inadmissible if offered as motions during its consideration (8, 3235); may not require conferees to report back amendments outside the subjects in disagreement between the two Houses (8, 3243, 3244).

Conference Reports

When conference results in disagreement, conferees reporting disagreement are thereby discharged (Cannon's Procedure, 4th Ed., 124).

Supplemental reports or minority views may not be filed in connection with conference reports (8, 3302).

Conference reports may not be considered when original bill and accompanying papers are not before the House (8, 3301).

When a conference report is called up only three courses are open: (a) agree, (b) disagree, or (c) recommit (5, 6546).

Conference reports may not be—

 Tabled (5, 6538-6544).

 Referred to committee (5, 6558).

 Amended (5, 6534, 6535), except by concurrent resolution (5, 6536, 6537; 8, 3306-3308).

 Recommitted, if House has already agreed (5, 6545-6553, 6609).

When called up for consideration the motion to agree is regarded as pending, and the motion to disagree is not admitted (2, 1473; 5, 6517; 8, 3300).

A conference report must be acted on as a whole and agreed to or disagreed to in entirety (5, 6472-6480; 8, 3304, 3305).

If either House disagrees to conference report the bill returns to position before conference was asked (5, 6526), and amendments in disagreement come up for consideration as originally (2, 1473; 5, 6525).

Clerical errors in conference reports agreed to by the House are corrected by proper enrollment of the bill (Cannon's Procedure, 4th Ed., 127).

The Speaker may rule out a conference report if it is shown that the conferees have exceeded their authority (§547; 5, 6409, 6410, 6414-6416; 8, 3256, 3264). The Senate amendments are then before the House *de novo*, and motions to send to conference are again in order (Cannon's Procedure, 4th Ed., 129).

A conference report may be recommitted to the committee of conference if the House has not, by acting on the report, discharged its managers (§550; 5, 6545-6553, 6609; 8, 3310).

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PRECEDENTS ON CONSTITUTIONAL QUESTIONS

Lieutenant Governor T. W. Davidson refused to rule on the constitutionality of an amendment and stated that he would not rule on constitutionality of any amendment unless the particular part of the Constitution alleged to be violated had been carried forward in the rules of the Senate (38th Reg., 702).

Qualifications of Member

A person holding the office of district attorney may become candidate for Senator at a special election; and if elected, the Senate is judge of whether he is barred from serving as Senator by Section 19 of Article 3 of Constitution (President pro tempore Will M. Martin, 44th, 1st Called, 103).

Amending Statutes

The Legislature, in an appropriation bill, may prescribe the qualifications of an officer or employee, for whose salary an appropriation is made (Senator Small, 45th Reg., 1189).

A general law may not be amended by an appropriation bill (Lieutenant Governor Woodul, 44th, 3rd Called, 50).

A section of a general statute cannot be amended except by a general bill that re-enacts at length and as amended the section amended (Lieutenant Governor Woodul, 44th, 3rd Called, 50).

Donations by State

A bill granting and donating ad valorem taxes to the counties of the State for a period of five years for the purpose of constructing improvements to prevent soil erosion, and for flood control, highway construction, etc., does not violate Section 51 of Article 3, which provides that the Legislature shall have no power to make a grant of public moneys to any municipal or other corporation (Lieutenant Governor Woodul, 45th Reg., 933).

An amendment to permit a loan by the State in violation of Constitution is not in order (Lieutenant Governor Smith, 49th Reg., 613).

An amendment making an appropriation for the conversion and enlargement of properties donated to the State by the Southwestern Medical Foundation into a College of Medicine of the University of Texas is not in violation of Section 6 of Article 16 of the Constitution prohibiting appropriations for private or individual purposes. (Ruling by Lieutenant Governor Shivers, overruling point of order by Senator Morris, 51st Reg., 1127.)

Amendment by Reference

The mere inclusion or exclusion of a designated thing, individual or class from the purview of a prior enactment does not constitute an "amendment by reference" within prohibition of Constitution. (Vernon's Ann. St. Const. Art. 3, Sec. 36, *S. W. Gas & Elec. Co. vs. State*, 190 SW 2d, 132.)

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Exclusive Powers of House or Senate

“The specific grant of a power to each House is an express denial of it to the courts or to precedent or subsequent Legislatures.”

“There are certain matters which each House determines for itself and in respect to which its decisions are conclusive”; for example, passing on the qualification of members, the adoption of rules of procedure, the confirmation of appointments by the Senate, impeachment by House, trial of impeachment by Senate.

(See Opinion of Attorney General B. F. Looney, S. J. 3rd Called Session, 35th Leg., 1917, 48-49.)

Taxation

A bill to amend an article of the Revised Civil Statutes relative to tax on menageries, etc., held not a bill to raise revenue (Lieutenant Governor Johnson, 36th Reg., 512).

A Senate resolution that “the Senate go on record as favoring a tax of one dollar on each pint of whiskey” is not in order because it “commits the Senate on a measure that should originate in the House” (Lieutenant Governor Miller, 40th, 2nd Called).

For ruling of the Attorney General relative to the adding by the Senate of a license tax to a bill providing for a gasoline tax, see pages 65-67 Senate Journal, 41st Legislature, First Called Session.

The Senate may amend a revenue bill from the House by adding a new field of taxation, and so may place a tax on the sale of cigarettes by amending a bill imposing a privilege tax on persons producing natural gas; and a tax on cement may be added to a bill levying tax on peddlers (Lieutenant Governor Witt, 42nd Reg., 893, 1622).

A measure which merely relates to revenue and is not a “revenue-raising measure” may originate in the Senate (President pro tempore Pace, 45th Reg., 249).

A Senate bill amending a revenue-raising law is a revenue-raising measure itself and cannot originate in the Senate (Lieutenant Governor Witt, 42nd, 1st Called, 696).

An amendment, the adoption of which will make of a Senate bill a revenue-raising measure, is not in order (President pro tempore Pace, 45th Reg., 249).

Jurisdiction—Special Sessions

A bill relating to a subject not within the Governor’s call for a special session, upon being submitted for introduction, is out of order, and the Chair may refuse to refer it to a committee (Lieutenant Governor Barry Miller, 41st, 5th Called, 9, 14).

A bill amending a law relating to a subject not within the Governor’s call may not be introduced at a called session (Lieutenant Governor Woodul, 44th, 1st Called, 63).

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A point of order as to the Senate's jurisdiction may be raised at any time, and a point of order against consideration of a bill at a Called Session on the ground that it relates to a subject not submitted for consideration at that session or a point of order that the bill is a revenue-raising measure that cannot originate in the Senate, if upheld, prevents consideration by the Senate of any such bill (Lieutenant Governor Woodul, 44th, 2nd Called, 24).

A bill to prohibit betting on races by pari-mutuel method and by other methods as well is within call of Governor for a special session "to outlaw and prohibit the so-called pari-mutuel betting or gaming on horse races at race tracks" (Lieutenant Governor Woodul, 45th, 1st Called, 19-20).

In case the Chair holds a bill may not be introduced at a called session because it relates to a subject not submitted by the Governor and an appeal is taken from the ruling and the Chair is not sustained, the bill may be introduced and considered by the Senate at that session (Lieutenant Governor Woodul, 45th, 2nd Called, 60).

A bill revising appropriations already made comes within the Governor's call of a special session to "balance the budget, etc." (Senator Small, 45th, 2nd Called, 71).

A concurrent resolution to permit suit against State not in order at called session unless subject of resolution submitted by Governor (President pro tempore Beck, 47th, 1st Called, 69).

An amendment to authorize the use of a portion of certain revenues for the benefit of the M. D. Anderson Hospital for Cancer Research is not within the Governor's call for a special session "to make and to finance such appropriations as the Legislature may deem necessary . . . for the agencies and institutions for which appropriations were made by Chapter 553, Acts of the 51st Legislature, Regular Session," since no reference is made in said Chapter to said M. D. Anderson Hospital for Cancer Research (President pro tempore Hazlewood, sustaining point of order by Senator Aikin, 51st, 1st Called, 79).

An amendment making an appropriation to be used principally for distributing surplus commodities to the State hospitals and special schools is within the Governor's call for a special session "to make and to finance such appropriations as the Legislature may deem necessary for the State hospitals and special schools. . . ." (President pro tempore Hazlewood, overruling point of order by Senator Kelly of Tarrant, 51st, 1st Called, 79).

Joint Resolution

A Senate joint resolution proposing an amendment to the Constitution is a matter that takes precedence of House bills and concurrent resolutions even on House bill days (Lieutenant Governor Woodul, 44th Reg., 556).

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Local Bills, Constitutionality

The message of Governor Stevenson found at page 286, Senate Journal, 49th Legislature, Regular Session, contains excerpts from, and citations to a number of court decisions holding so-called “bracket bills” to be unconstitutional.

Uniform Tax Rule

Under the constitutional provision requiring all occupation taxes to be equal and uniform on same class, Legislature has power to classify subjects and court can only interfere when it is made clearly to appear that the attempted classification has no reasonable basis in the nature of businesses classified and that the law operates unequally upon subjects between which there is no real difference. (See Vernon's Annotated Constitution, Art. 3, Section 2.)